

**Notice of Allowability**

Application No.

10/616,887

Examiner

Peter J. Vrettakos

Applicant(s)

LINDENBAUM ET AL.

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3739

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE 12-13-06.
2. ☒ The allowed claim(s) is/are 28-37 and 45.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 11/20/06, 12/18/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

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### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

I. Claim 28. A hemostasis device for closing a puncture in an artery wall, comprising:

a main shaft;

at least one expandable member disposed on the main

shaft, wherein the expandable member in one configuration

is adapted to delimit a blood coagulation volume by the

engagement of the expandable member against an outside of an artery wall; and

at least one electrode, operable to supply an electric current, coupled to the main shaft in the vicinity of the blood coagulation volume,

wherein upon activation of the electrode, the electrode is adapted to cause blood disposed in the blood coagulation volume to coagulate thereby causing a closure of the puncture.

II. In para. [0001], line 2 after "10/358,130," --now U.S. Pat. No. 7,115,127, -- has been inserted.

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III. Cancel claims 11-20, 38-44 and 46.

IV. Claim 31. A hemostasis device according to claim 28 and also comprising an electrical power source and control module connected to the electrode.

V. Claim 32. A hemostasis device according to claim 31 and wherein the electrical power source and control module comprises: a power supply, operative to supply power to the at least one electrode; feedback measurement means for supplying feedback measurements; and a processor.

The following is an examiner's statement of reasons for allowance:

Independent claim 28 describes a hemostasis device used for a specific surgical procedure. The device includes a balloon(s) and electrode(s) that act in concert to cause blood coagulation and closure of a puncture in a blood vessel.

Typically, if the prior art is structurally equivalent to a claimed device and is structurally capable of a claimed intended use (such as blood coagulation and closure of a blood vessel), then the prior art anticipates or makes obvious the claimed invention and can be used to reject the claims. In the instant case, the Office cannot fairly assert nor confirm that the prior art is structurally capable of blood coagulation and closure of a blood vessel (see Applicant's figures 2e and 2g, electrode 176, balloon 160) as currently described in independent claims 11,

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28 and 38. The prior art certainly does not expressly disclose that surgical procedure. As such the application is in condition for allowance.

Myers et al. (5,486,195) depicts a similar hemostasis device, however in place of the Applicant's electrodes are holes to emit sealant.

Tay et al. (5,507,744) depicts a similar hemostasis device, however, the Tay balloon (14) is not adapted to delimit blood by engagement against an **outside** of an artery wall. Instead, the Tay balloon is adapted to delimit by engagement against the **inside** of a vessel wall.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J. Vrettakos whose telephone number is 571-272-4775. The examiner can normally be reached on M-F 9-6.

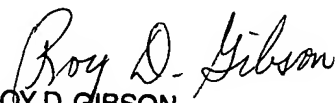
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Pete Vrettakos  
January 10, 2007



  
ROY D. GIBSON  
PRIMARY EXAMINER